

**REMARKS**

Entry of the foregoing and reconsideration of the subject application are respectfully requested in light of the amendments above and the comments which follow.

As correctly noted in the Office Action Summary, claims 40 and 41 were pending. By the present response, the specification has been amended. Thus, upon entry of the present response, claims 40-41 remain pending and await further consideration on the merits.

***CLAIM FOR BENEFIT OF EARLIER FILING DATE AND CROSS-REFERENCE TO RELATED APPLICATIONS***

Enclosed herewith is a Petition Under 37 C.F.R. §1.78(a)(3) to Accept an Unintentionally Delayed Reference under 35 U.S.C. § 120 and/or § 365. The present amendment to the specification makes the cross-reference to related applications required under 37 C.F.R. §1.78. It is respectfully requested upon granting of the petition that this application be accorded the benefit of the earlier filing date, as provided under 35 U.S.C. §§ 363 and 365.

***CLAIM REJECTIONS UNDER 35 U.S.C. §102***

Claims 40 and 41 stand rejected under 35 U.S.C. §102(a) as being anticipated by WO 00/40425 to Scholta (hereafter "*Scholta*") on the grounds set forth in paragraph 3 of the Official Action. This rejection is respectfully traversed.

**1. The date of invention of the present application based on a perfected priority date is prior to the date the Scholta PCT reference is available as prior art**

The rejections are respectfully traversed because the *Scholta* reference is not prior art to the present application under the statutory standards set out in 35 U.S.C. § 102 and its use in a rejection of the present claims is improper.

The present application was filed under 35 U.S.C. §371 and, under 35 U.S.C. §363, has an effective filing date in the U.S. Patent and Trademark Office that is the same as the international filing date, e.g., September 29, 1999. Further, the international application is a Continuation-in-Part Application of U.S. Application No., 09/162,844, filed on September 29, 1998. The *Scholta* reference has an international application filing date of December 23, 1999 and was published in a non-English language on July 13, 2000. Thus, the present application was filed prior to the international filing date of the *Scholta* reference and prior to the publication of the *Scholta* reference.

Because the *Scholta* patent is not available as prior art against the application, Applicant respectfully requests the withdrawal of the rejections. Accordingly, all pending claims are considered allowable.

**CONCLUSION**

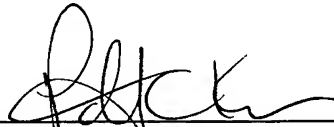
From the foregoing, further and favorable action in the form of a Notice of Allowance is earnestly solicited. Should the Examiner feel that any issues remain, it is requested that the undersigned be contacted so that any such issues may be adequately addressed and prosecution of the instant application expedited.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: July 16, 2004

By: \_\_\_\_\_

  
Patrick C. Keane  
Registration No. 32,858

Hewlett Packard Company  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

(703) 836-6620